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DNR-FS-2019-01

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Fyke Nets
COMAR 08.02.05.02, 08.02.21.03, and 08.02.25.09
Released October 25, 2019
Updated January 24, 2020
Updated March 25, 2020

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300
410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay
Fax: 410-260-8310

I. SUMMARY & FAQs

What was proposed?

The department proposed:

1) A requirement that individuals remove fyke net poles from the water within 30 days after removing the net.

2) Creation of a new regulation located in the gear chapter of the Code of Maryland Regulations (COMAR). Currently, regulations for fyke nets are located in the general fishing chapter and some in the yellow perch chapter of COMAR. The proposed action moves the existing regulations about fyke nets to the new regulation in the gear chapter. This will simplify rules and allow everyone who uses a fyke net to find the rules in one location.

Why is this change necessary?

Fyke nets are very similar to pound nets and the department would like to standardize the rules across similar gear types. Currently, there is not a requirement for individuals using fyke nets to remove the fyke net poles from the water after removing the net. If poles are not removed from the water in a timely fashion, they may become navigational hazards to other users of the waterway. When using a pound net, which is a similar but larger type of net, poles must be removed from the water within 30 days of removing the net.

Who will this affect?

Anyone who uses a fyke net to catch fish.

What do you need to do to comply with the change?

Individuals who use fyke nets are required to remove their fyke net poles from the water within 30 days after removing the net from the poles. Most individuals who use fyke nets already remove their poles at the same time they take their nets down so most individuals won't notice any change. This action does not create any new recordkeeping or reporting requirements.

Has this change been discussed with advisory commissions?

This idea was discussed with the Tidal Fisheries Advisory Commission Gear Workgroup on May 28, 2019. The workgroup approved of this change to standardize the rules across similar gear types. This idea was also discussed with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their July 2019 meetings.

What are the specific regulatory actions?

- 1) Amend Regulation .03 under COMAR 08.02.21 Yellow Perch; and
- 2) Adopt new Regulation .09 under COMAR 08.02.25 Gear.

II. DEFINITIONS

“Fyke Net” is a commercial fishing gear and is defined in COMAR 08.02.25.01. It means a stationary finfish entrapment net device, without a pound or crib, consisting of:

- (a) A series of hoops covered by mesh webbing of #12, or larger, twine of not less than 1-1/2 inch mesh size;
- (b) No more than one set of wings;
- (c) A leader or hedging not longer than 250 feet consisting of #12, or larger, twine and with a minimum mesh size of 3 inches;
- (d) In nets with a mesh size less than 2-1/2 inches, a cull panel at least 1 foot by 1 foot with unobstructed escape meshes when set with a minimum mesh size of 2-1/2 inches;
- (e) A single entrance funnel; and
- (f) One or more internal funnel shaped throats.

III. IMPLEMENTATION DATE

The department followed our normal scoping and proposal procedures.

During the scoping process, the department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the department considers these comments and develops an appropriate management strategy. The ideas for this proposal were scoped from October 25 through November 10, 2019.

At the conclusion of the scoping process, the department determined that the action is necessary and appropriate. The rules were promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviewed the regulatory proposal for fiscal and legal analysis.
- The proposal was printed by the Division of State Documents in the Maryland Register on January 17, 2020.
- A 30 day public comment period began on the day of publication. The comment period closed at 11:59 p.m. February 18, 2020.

At the conclusion of the comment period:

- The department decided to adopt all changes.
- The final action adopting regulations was published in the Maryland Register on March 13, 2020.

These regulations are effective March 23, 2020.

IV. INTERNET LINKS & ADDITIONAL RESOURCES

- [Natural Resources Article, §4-221, Annotated Code of Maryland](#)
- [Natural Resources Article, §4-711, Annotated Code of Maryland](#)
- [COMAR 08.02.05.02M](#)
- [COMAR 08.02.21.03K](#)
- [COMAR 08.02.25](#)